HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 3789 OF 2004

Between:

K. Dharmareddy & others

..... Petitioners

AND

Government of India,
Ministry of Affairs (Freedom Fighters Division)
New Delhi

.....Respondent

:: O R D E R::

Counsel for the petitioners : Shri Kowturu Vinay Kumar

Counsel for the respondent : Shri A. Rajashekar Reddy, Assistant Solicitor General

Dated: 24.10.2006

In this petition, the petitioners (eight in number) have prayed for quashing communications dated 30.06.2003, 07.07.2003, 11.08.2003, 14.07.2003, 30.06.2003, 05.01.2004, 21.02.2003 and 28.01.2003 vide which the Government of India rejected their claim for grant of pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme'). They have further prayed for issue of a mandamus to the respondent to grant pension to them under the 1980 Scheme.

The claim of the petitioners is founded on the assertion contained in the affidavit of petitioner No.1 – K. Dharmareddy that all of them had fought against the Nizam rule during 1947-48 and suffered a lot. In 1982-83, they applied for grant of pension under the 1980 Scheme. After getting necessary enquiries conducted through the Revenue Divisional Officer and Collector, Warangal, the State Government forwarded their applications to the Government of India, but the latter arbitrarily rejected the same on the ground of some discrepancy in the age of some of the petitioners and also on the ground that the camps mentioned in their applications do not appear in the list of border camps certified by the erstwhile Hyderabad Special Screening Committee.

In the counter-affidavit filed by Shri S.D. Kaushik, Under Secretary in the Ministry of Home Affairs, Government of India, it has been averred that at the time of filing of applications by the

petitioners, border camps in which they are said to have participated as freedom fighters had not been recognized by the Government of India, but later on those camps have also been recognized and in view of the subsequent decision, the records are required to be scrutinized for the purpose of determination of the petitioners' entitlement to receive pension under the 1980 Scheme. In paragraph 38 of his affidavit, Shri S.D. Kaushik has averred as under:

> "(a) The petitioners S/Shri K. Dharma Reddy, B. Mallaiah and N. Venkat Reddy have claimed to have remained underground in Chandragiri, Vaichavi and Inuprahigattu border camps. However, these camps were not in the list of recognized camps prepared by the Hyderabad Special Screening Committee. In this connection, submissions in para 13 above refer. The claims of the petitioners were, therefore, rejected in accordance with the policy for processing of HSSC recommended cases.
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> (a) However, as submitted in para 14 above, subsequently 18 more camps were recognized and Chandragiri, Vaichavi and Inuprahigattu border camps appear in the list of these 18 camps.
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> (b) Without prejudice to the foregoing, as submitted in para 30 and 31, modalities for conducting scrutiny of cases, referred for verification to the State Government, to be carried out at the field level, jointly in conjunction with the concerned district authorities of the state Governments, in order to identify eligible freedom fighters in consonance with the prescribed eligibility criteria, are being processed for approval at competent levels. Thereafter, the petitioner's case will also be processed like all other similar cases.

(c) As already submitted in para 27 above, it was decided in January, 2006 that no sanction or approval for calling Identification Documents (IDs) may be given in any case [Court orders (after correct examination) excluded], till (and if) a bonafide and correct course of action is approved at the competent level.

(d) Therefore, no further decision on the claim of the petitioner can be taken till finalisation of the procedure as submitted in sub-para (e) above.

(e) The petitioners S/Shri K.Nagaiah and S.Veeramma have claimed to have remained underground in Congress Committee, Warangal and Warangal border Camps. However, these camps were not in the list of recognized camps prepared by the Hyderabad Special Screening Committee. In this connection submissions in para 13 above refer. The claims of the petitioners were, therefore, rejected in accordance with the policy for processing of HSSC recommended cases.

(f) However, as submitted in para 14 above, subsequently 18 more camps were recognized and Congress Committee, Warangal and Warangal border Camps do not appear in the list of these 18 camps.

(g) Therefore, as per the revised policy outlined above in paras 18-19, the claim of the petitioners mentioned in sub-para (f) deserves to be rejected.

(h) Without prejudice to the foregoing, as submitted in para 30 and 31, modalities for conducting scrutiny of cases, referred for verification to the State Government, to be carried out at the field level, jointly in conjunction with the concerned district authorities of the State Governments, in order to identify eligible freedom fighters in consonance with the prescribed eligibility criteria, are being processed for approval at competent levels.

Thereafter, the petitioner's case will also be processed like all other similar cases.

(i) As already submitted in para 27 above, it was decided in January, 2006 that no sanction or approval for calling Identification Documents (IDs) may be given in any case [Court orders (after correct examination) excluded], till (and if) a bonafide and correct course of action is approved at the competent level.

(j) Therefore, no further decision on the claim of the petitioner can be taken till finalisation of the procedure as submitted in sub- para (i) above. "

In view of the stand taken in the affidavit filed on behalf of the respondent, I do not consider it necessary to examine the merits of the claims set out by the petitioners and feel that the ends of justice will be met by directing the respondent to consider the cases of the petitioners for grant of pension under the 1980 Scheme and decide the same within a specified time.

Hence, the writ petition is disposed of with the direction that within four months from the date of receipt of copy of this order by Under Secretary to Government of India, Ministry of Home Affairs (Freedom Fighters Division), the petitioners' claim for grant of pension be decided by passing a speaking order. The decision taken by the competent authority shall be communicated to each of the petitioners by registered post at the end of four months' period.

If the petitioners or any one of them feel aggrieved by the decision taken by the Government of India, then they/he shall be free to avail appropriate legal remedy.

As a sequel to disposal of the writ petition, W.P.M.P.No.

4999 of 2004 filed by the petitioners for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

24.10.2006
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